

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

ROY EASTERWOOD,)	
)	
Plaintiff)	
)	
vs.)	No. CIV-06-1023-C
)	
OKLAHOMA DEPARTMENT OF)	
CORRECTIONS, et al.,)	
)	
Defendants)	

ORDER ADOPTING REPORT AND RECOMMENDATION

This action for habeas corpus relief brought by a prisoner, proceeding pro se, was referred to United States Magistrate Judge Doyle W. Argo, consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). Judge Argo entered a Report and Recommendation on February 7, 2007, to which Plaintiff has timely objected. The Court therefore considers the matter de novo.

The facts and law are accurately set out in the Magistrate Judge's Report and Recommendation and there is no purpose to be served in repeating them yet again. In his objection, there is nothing asserted by Plaintiff which was not fully considered and correctly rejected by the Magistrate Judge, and no argument of fact or law is set forth in the objection which would require a different result.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge, and for the reasons announced therein, Plaintiff's claims against Defendant

Oklahoma Department of Corrections are dismissed without prejudice on grounds of Eleventh Amendment immunity; Plaintiff's claims against Defendant Jones in his official capacity are dismissed without prejudice on grounds of Eleventh Amendment immunity; to the extent Plaintiff has sued Defendant Jones in his individual capacity, summary judgment is granted in Defendant Jones' favor as to Count 3 on grounds of qualified immunity, and that Defendant Jones' motion to dismiss on grounds that Plaintiff has failed to show his personal participation in the acts forming the basis of Counts 1, 2, 4, and 5 is granted, and that those counts are dismissed without prejudice. A judgment will enter accordingly.

IT IS SO ORDERED this 16th day of March, 2007.


ROBIN J. CAUTHRON
United States District Judge